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9
10 **BEFORE THE**
11 **PHYSICIAN ASSISTANT BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against,

15 **THANH PHAM, P.A.**
16 **P. O. Box 9012**
Fountain Valley, CA 92708

17 **Physician Assistant License No. 22358**

18 One.

Case No. 950-2016-000962

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

19
20 **FINDINGS OF FACT**

21 1. On or about October 19, 2018, Maureen L. Forsyth (Complainant), in her official
22 capacity as the Executive Officer of the Physician Assistant Board (Board), Department of
23 Consumer Affairs, filed Accusation No. 950-2016-000962 against Thanh Pham, P.A.
24 (Respondent) before the Board.

25 2. On or about June 26, 2012, the Board issued Physician Assistant License No. 22358
26 to Respondent. The Physician Assistant License expired on November 30, 2017, and has not

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1 been renewed. A certified copy of Respondent's Certificate of Licensure is attached as Exhibit 1
2 to the accompanying Default Decision Evidence Packet¹. (Exhibit 1: Certificate of Licensure.)

3 3. On or about October 19, 2018, Sara Pasion, an employee of the Board, served by
4 Certified and First Class Mail a copy of the Accusation No. 950-2016-000962, Statement to
5 Respondent, Notice of Defense (two copies), Request for Discovery, and Government Code
6 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
7 was and is P. O. Box 9012, Fountain Valley, CA 92708. A true and correct copy of the
8 Accusation, the related documents, and Declaration of Service are attached, and are incorporated
9 herein by reference. (Exhibit 2: Accusation, related documents, and Declaration of Service.)

10 4. On or about November 6, 2018, Respondent signed a U.S. Postal Service return
11 receipt card indicating the aforementioned documents had been delivered. A true and correct
12 copy of the signed return receipt card is attached, and is incorporated by reference as if fully set
13 forth herein. (Exhibit 3: Copy of USPS Signed return receipt card.)

14 5. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c).

16 6. Business and Professions Code section 118 states, in pertinent part:

17 “(b) The suspension, expiration, or forfeiture by operation of law of a license
18 issued by a board in the department, or its suspension, forfeiture, or cancellation by
19 order of the board or by order of a court of law, or its surrender without the written
20 consent of the board, shall not, during any period in which it may be renewed,
21 restored, reissued, or reinstated, deprive the board of its authority to institute or
22 continue a disciplinary proceeding against the licensee upon any ground provided by
23 law or to enter an order suspending or revoking the license or otherwise taking
24 disciplinary action against the license on any such ground.”

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28 ¹ All exhibits, which are true and correct copies of the originals, are attached to the
accompanying “Default Decision Evidence Packet.” The Default Decision Evidence Packet is
hereby incorporated by reference, in its entirety, as if fully set forth herein.

1 7. Government Code section 11506 states, in pertinent part:

2 “(a) Within 15 days after service of the accusation [...] the respondent may file
3 with the agency a notice of defense [...]

4 “(c) The respondent shall be entitled to a hearing on the merits if the respondent
5 files a notice of defense [...] and the notice shall be deemed a specific denial of all
6 parts of the accusation not expressly admitted. Failure to file a notice of defense shall
7 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
8 may nevertheless grant a hearing [...]

9 “...”

10 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 950-
12 2016-000962. (Exhibit 4: Declaration of Deputy Attorney General Keith C. Shaw.)

13 9. On or about November 9, 2018, Deputy Attorney General Keith C. Shaw mailed a
14 courtesy notice of default to Respondent informing her she had failed to submit a Notice of
15 Defense, and if it was not received, a Default would be filed against her. Respondent did not send
16 a Notice of Defense to Deputy Attorney General Keith C. Shaw. (Exhibit 5: Courtesy Notice of
17 Default.)

18 10. California Government Code section 11520 states, in pertinent part:

19 “(a) If the respondent [...] fails to file a notice of defense [...], the agency may take action
20 based upon the respondent's express admissions or upon other evidence and affidavits may be
21 used as evidence without any notice to respondent [...]

22 “...”

23 11. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on
25 Respondent's express admissions by way of default and the evidence before it, contained in
26 Default Decision Evidence packet, hereby finds that the charges and allegations in Accusation
27 No. 950-2016-000962, and each of them, separately and severally, are true and correct.

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1 12. Section 3527 of the Code provides that the Board may order the denial of an
2 application for, or the issuance subject to terms and conditions of, or the suspension or revocation
3 of, or the imposition of probationary conditions upon a physician assistant license for
4 unprofessional conduct.

5 13. Section 3531 of the Code states:

6 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
7 charge of a felony or of any offense which is substantially related to the qualifications, functions,
8 or duties of the business or profession to which the license was issued is deemed to be a
9 conviction within the meaning of this chapter. The board may order the license suspended or
10 revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment
11 of conviction has been affirmed on appeal or when an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
13 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
14 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
15 or indictment.”

16 14. Section 2234 of the Code states in part:

17 “The board shall take action against any licensee who is charged with unprofessional
18 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
19 limited to, the following:

20 “(e) The commission of any act involving dishonesty or corruption which is substantially
21 related to the qualifications, functions, or duties of a physician and surgeon.”

22 15. Section 2236 of the Code states:

23 “(a) The conviction of any offense substantially related to the qualifications, functions, or
24 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
25 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
26 occurred.

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1 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
2 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
3 shall be conclusive evidence of the fact that the conviction occurred.”

4 16. Section 2237 of the Code states in part:

5 “(a) The conviction of a charge of violating any federal statutes or regulations or any statute
6 or regulation of this state, regulating dangerous drugs or controlled substances, constitutes
7 unprofessional conduct. The record of the conviction is conclusive evidence of such
8 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo
9 contendere is deemed to be a conviction within the meaning of this section.”

10 17. California Code of Regulations, title 16, section 1360, states:

11 “For the purposes of denial, suspension or revocation of a license, certificate or permit
12 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
13 considered to be substantially related to the qualifications, functions or duties of a person holding
14 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
15 evidences present or potential unfitness of a person holding a license, certificate or permit to
16 perform the functions authorized by the license, certificate or permit in a manner consistent with
17 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
18 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
19 violation of, or conspiring to violate any provision of the Medical Practice Act.”

20 19. Respondent has subjected her Physician Assistant License No. 22358 to disciplinary
21 action under sections 2236 and 3531 of the Code, and California Code of Regulations, title 16,
22 section 1360 based on the following circumstances.

23 20. Respondent pled guilty on or about January 6, 2017, in the United States District
24 Court, Central Division of California, to one felony count of Conspiracy to Distribute Controlled
25 Substances pursuant to 21 U.S.C. § 846, and was sentenced to probation for a term of thirty-six
26 (36) months, based on the following allegations (Exhibit 6: Certified copy of Indictment Case No.
27 SACR 16-00079 JVS; and Exhibit 8: Certified copy of USDC Judgment SACR 16-00079 JVS):

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- 1 a. In approximately 2012 through 2013, Respondent conspired with a physician
2 (V.S.) and another physician assistant (K.N.) to illegally prescribe controlled
3 substances on numerous occasions without a medical purpose in exchange for
4 cash and insurance payments.
- 5 b. Respondent, while acting outside the usual course of practice and without a
6 legitimate medical purpose, would meet with patients and provide them with
7 prescriptions for oxycodone,² methadone,³ and alprazolam,⁴ among other
8 drugs, which had been pre-signed by V.S.

9 21. Respondent's January 6, 2017, criminal conviction for Conspiracy to Distribute
10 Controlled Substance is substantially related to the qualifications, functions and duties of a
11 physician assistant in that her conviction is directly associated with her practice as a physician
12 assistant and demonstrates unprofessional conduct, conviction of a crime. As such, her
13 conviction and conduct constitute cause for discipline pursuant to Code sections 2236 and 3531,
14 and California Code of Regulations, title 16, section 1360 (criminal conviction). (Exhibit 7:
15 Certified copy of USDC Criminal Minutes – Plea Case No. SACR 16-00079 JVS)

16 22. Respondent has further subjected her Physician Assistant License No. 22348 to
17 disciplinary action under section 2237 of the Code based on the following circumstances.

18 23. Paragraphs 20 through 21, above, are hereby realleged and incorporated by this
19 reference as if fully set forth herein.

20 24. Respondent's January 6, 2017, criminal conviction for a crime regulating dangerous
21 drugs or controlled substances constitutes unprofessional conduct pursuant to section 2237.

22 25. Respondent has further subjected her Physician Assistant License No. 22358 to
23 disciplinary action under sections 2234 and 2234, subdivision (e), of the Code, based on the
24 following circumstances.

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26 _____
27 ² Oxycodone is a Schedule II narcotic used to treat moderate to severe pain and has a high
28 risk for addiction and dependence.

³ Methadone is a Schedule II narcotic pain reliever with multiple actions quantitatively
 similar to those of morphine, and can also be used to treat narcotic drug addiction.

⁴ Alprazolam is a Schedule IV sedative used in the treatment anxiety and panic disorder.

26. Paragraphs 20 through 25, above, are hereby realleged and incorporated by this reference as if fully set forth herein.

27. Respondent's January 6, 2017, criminal conviction for Conspiracy to Distribute Controlled Substances is substantially related to the qualifications, functions and duties of a physician assistant in that her conviction is directly associated with her practice as a physician assistant and demonstrates unprofessional conduct, dishonest or corrupts acts. As such, her conviction and conduct constitute cause for discipline pursuant to section 2234, and 2234, subdivision (e), of the Code.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Thanh Pham, P.A., has subjected her Physician Assistant License No. 22358 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. Pursuant to its authority under Government Code section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations contained in Accusation No. 950-2016-000962, and the Findings of Fact contained in paragraphs 1 through 28, above, and each of them, separately and severally, are true and correct.

4. Pursuant to its authority under Government Code section 11520, and by reason of the Findings of Fact contained in paragraphs 1 through 28, above, and Determination of Issues 1, 2, and 3 above, the Board hereby finds that Respondent Thanh Pham, P.A., has subjected her Physician Assistant License No. 22358 to disciplinary action in that:

(a) Respondent was convicted of a crime substantially related to the qualifications functions, or duties of a respiratory care practitioner in violation of Business and Professions Code sections 2236 and 3531 and California Code of Regulations, title 16, section 1360;

(b) Respondent engaged in unprofessional conduct in that she was convicted of a crime regulating dangerous drugs or controlled substances in violation of Business and Professions Code section 2237; and

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1 (c) Respondent's committed unprofessional conduct, dishonest or corrupt acts,
2 in that her criminal conviction for Conspiracy to Distribute Controlled Substances is
3 substantially related to the qualifications, functions and duties of a physician assistant
4 and is directly associated with her practice as a physician assistant in violation of
5 Business and Professions Code sections 2234, and 2234, subdivision (e).

6 **ORDER**

7 **IT IS SO ORDERED** that Physician Assistant License No. 22358, heretofore issued to
8 Respondent Thanh Pham, P.A., is revoked.

9 If Respondent ever files an application for relicensure or petition for reinstatement in the
10 State of California, the Board shall treat it as a petition for reinstatement of a revoked license.
11 Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked
12 license at the time that the application for relicensure or petition for reinstatement is filed.

13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17 This Decision shall become effective on April 5, 2019.

18 It is so ORDERED March 7, 2019

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21 FOR THE PHYSICIAN ASSISTANT BOARD
22 DEPARTMENT OF CONSUMER AFFAIRS
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 19 20 18
BY Sara Fasion ANALYST

10 BEFORE THE
11 PHYSICIAN ASSISTANT BOARD
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 In the Matter of the Accusation Against:

Case No. 950-2016-000962

15 **THANH PHAM, P.A.**

16 P. O. Box 9012
17 Fountain Valley, CA 92708

A C C U S A T I O N

18 **Physician Assistant License No. 22358**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official
24 capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer
25 Affairs.

26 2. On or about June 26, 2012, the Physician Assistant Board issued Physician Assistant
27 License Number 22358 to Thanh Pham, P.A. (Respondent). The Physician Assistant License
28 expired on November 30, 2017, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Physician Assistant Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3527 of the Code provides that the Board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license for unprofessional conduct.

5. Section 3531 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which is substantially related to the qualifications, functions, or duties of the business or profession to which the license was issued is deemed to be a conviction within the meaning of this chapter. The board may order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.”

6. Section 2234 of the Code states in part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.”

7. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this

1 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
2 occurred.

3 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
4 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
5 shall be conclusive evidence of the fact that the conviction occurred.”

6 8. Section 2237 of the Code states in part:

7 “(a) The conviction of a charge of violating any federal statutes or regulations or any statute
8 or regulation of this state, regulating dangerous drugs or controlled substances, constitutes
9 unprofessional conduct. The record of the conviction is conclusive evidence of such
10 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo
11 contendere is deemed to be a conviction within the meaning of this section.”

12 9. California Code of Regulations, title 16, section 1360, states:

13 “For the purposes of denial, suspension or revocation of a license, certificate or permit
14 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
15 considered to be substantially related to the qualifications, functions or duties of a person holding
16 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
17 evidences present or potential unfitness of a person holding a license, certificate or permit to
18 perform the functions authorized by the license, certificate or permit in a manner consistent with
19 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
20 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
21 violation of, or conspiring to violate any provision of the Medical Practice Act.”

22 COST RECOVERY

23 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Criminal Conviction)

11. Respondent is subject to disciplinary action under sections 2236 and 3531 of the Code, and California Code of Regulations, title 16, section 1360 based on the following circumstances.

12. Respondent pled guilty on or about January 6, 2017, in the United States District Court, Central Division of California, to one felony count of Conspiracy to Distribute Controlled Substances pursuant to 21 U.S.C. § 846, and was sentenced to probation for a term of thirty-six (36) months, based on the following allegations:

- a. In approximately 2012 through 2013, Respondent conspired with a physician (V.S.) and another physician assistant (K.N.) to illegally prescribe controlled substances on numerous occasions without a medical purpose in exchange for cash and insurance payments.
- b. Respondent, while acting outside the usual course of practice and without a legitimate medical purpose, would meet with patients and provide them with prescriptions for oxycodone,¹ methadone,² and alprazolam,³ among other drugs, which had been pre-signed by V.S.

13. Respondent's January 6, 2017, criminal conviction for Conspiracy to Distribute Controlled Substance is substantially related to the qualifications, functions and duties of a physician assistant in that her conviction is directly associated with her practice as a physician assistant and demonstrates unprofessional conduct, conviction of a crime. As such, her conviction and conduct constitute cause for discipline pursuant to Code sections 2236 and 3531, and California Code of Regulations, title 16, section 1360 (criminal conviction).

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¹ Oxycodone is a Schedule II narcotic used to treat moderate to severe pain and has a high risk for addiction and dependence.

² Methadone is a Schedule II narcotic pain reliever with multiple actions quantitatively similar to those of morphine, and can also be used to treat narcotic drug addiction.

³ Alprazolam is a Schedule IV sedative used in the treatment anxiety and panic disorder.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Criminal Conviction Involving Controlled Substances)**

3 14. Respondent is subject to disciplinary action under section 2237 of the Code based on
4 the following circumstances.

5 15. Paragraphs 11 through 13, above, are hereby realleged and incorporated by this
6 reference as if fully set forth herein.

7 16. Respondent's January 6, 2017, criminal conviction for a crime regulating dangerous
8 drugs or controlled substances constitutes unprofessional conduct pursuant to section 2237.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct: Dishonest/Corrupt Acts)**

11 17. Respondent is subject to disciplinary action under sections 2234 and 2234,
12 subdivision (e), of the Code, based on the following circumstances.

13 18. Paragraphs 11 through 16, above, are hereby realleged and incorporated by this
14 reference as if fully set forth herein.

15 19. Respondent's January 6, 2017, criminal conviction for Conspiracy to Distribute
16 Controlled Substances is substantially related to the qualifications, functions and duties of a
17 physician assistant in that her conviction is directly associated with her practice as a physician
18 assistant and demonstrates unprofessional conduct, dishonest or corrupts acts. As such, her
19 conviction and conduct constitute cause for discipline pursuant to section 2234, and 2234,
20 subdivision (e), of the Code.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Physician Assistant Board issue a decision:


24 1. Revoking or suspending Physician Assistant License Number 22358, issued to Thanh
25 Pham, P.A.;

26 2. Ordering Thanh Pham, P.A. to pay the Physician Assistant Board the reasonable costs
27 of the investigation and enforcement of this case, pursuant to Business and Professions Code
28 section 125.3;

1 3. Ordering Thanh Pham, P.A., if placed on probation, to pay the Board the costs of
2 probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.
4
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6 DATED: October 19, 2018


MAUREEN L. FORSYTH
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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